

LAW OF REGISTRATION OF DEEDS

OF THE

BENGAL PRESIDENCY.

BY

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1845.

TO

THE RIGHT HONORABLE

SIR HENRY HARDINGE, G. C. B.,

GOVERNOR GENERAL OF INDIA,

THIS WORK,

ON THE

LAW OF REGISTRATION OF DEEDS,

IS RESPECTFULLY DEDICATED

BY

HIS MOST OBEDIENT AND HUMBLE SERVANT,

W. KIRKPATRICK.

CALCUTTA, THE 9TH SEPTEMBER, 1845.

PREFACE.

THE importance which the registration of deeds has assumed since the passing of the recent Acts on the subject, has induced me to put together the whole of the enactments which relate to it, in the hope that the compilation will prove useful, not only to those who are charged with the duty of giving effect to the intentions of the Legislature, but to the public by diffusing a knowledge of the law and the benefits it is adapted to confer.

The provisions of some of the late Acts have not, there is reason to believe, been sufficiently understood. Nor is it to be expected that many will be at the trouble of acquiring an accurate knowledge of the law of registration by researches among the regulations, circular orders, and constructions. To assist such, I have here collected the enactments and subsidiary orders bearing on the subject, and arranged them in a natural method, calculated to exhibit the progress of legislation, and at the same time to indicate the modifications which the earlier laws have undergone. The recent circular of the Sudder Court, which is designed to bring to the notice of the judges and the registers of deeds those provisions of the law on the subject which particularly require their attention, has been prefixed to the work.

I have subjoined to the whole an analysis, with the two-fold object of furnishing a summary for the use of those who may desire to have in a short compass the law on any part of the subject, and of giving those who may be doubtful of their own view of any point the construction put upon it. In this analysis prominence has been given to the distinction, overlooked by many, between registry offices established under the former laws and those instituted under Act XXX. 1838.

The analysis will incidentally serve to show the advantage and necessity of consolidating the laws on each subject, which are now scattered over various regulations and other orders, and liable in that state to be mistaken and overlooked.

PREFACE.

Were the advantages derivable from the registration of deeds generally known, there can be no doubt that landholders, indigo-planters, and persons having large money transactions, would avail themselves of the provisions of the law more largely than they do.—The views of the Legislature, too, would be greatly promoted if persons in official situations were to encourage the practice of registration within the sphere of their influence. To subserve this end, it is my intention to publish a translation of the enactments on the subject in the two languages in use in this presidency, the circulation of which among landholders and commercial men is likely to be productive of much benefit.

Though the chief advantages of registration are in favour of deeds relating to the conveyance and mortgage of lands, and contracts for the delivery of indigo plants, the registration of bonds and other obligations for the payment of money cannot but be beneficial, by facilitating the recovery of just claims and checking the institution of suits founded on forged documents. Even the attestation of deeds by town and pergunnah cazees cannot be devoid of benefit, in those petty transactions, in which the parties may wish to save themselves the trouble of registering at the sudder station, as there would be no room for doubt as to the authenticity of the deeds thus attested.—The provisions of the law on the point mentioned are but little known and acted upon. I have therefore included in this compilation the law relating to it, together with the circulars issued by the Sudder Court for carrying out the objects of the Government in the appointment of cazees to attest deeds.

To provide for some slight differences between the earlier regulations enacted for the Lower Provinces and those enacted for the Western Provinces a separate edition of this compilation has been prepared for each of the two divisions of the presidency.

That nothing relating to the registration of deeds might be omitted, a table of the stamp duties chargeable on deeds which are authorised to be registered, has been carefully drawn up, from the schedules annexed to the Stamp Regulation, to accompany the work.



LAW OF REGISTRATION OF DEEDS.

Circular Order addressed to the Civil Judges and Registers of Deeds in the Lower Provinces, under date the 31st January, 1845.

THE enactment of Act XIX. of 1843 having greatly increased the importance of providing for the punctual and correct registration of deeds, the Government have been pleased to direct that offices for that purpose shall be established at every civil station, in accordance with Section 2, Act XXX. of 1838, and that detailed instructions, for the guidance of those who may be entrusted with the duty, shall be drawn out and promulgated in the Government Gazette.

2. Accordingly the subjoined rules, embodying those provisions of law, and those authoritative orders which seem to require denotation, are published with the sanction of Government for the information of civil judges and for the guidance of registers of deeds.

3. It may be advisable to point out the several regulations, prescribing rules for the registry of deeds, and in the succeeding paragraphs to indicate those provisions, which call for the particular attention of those to whom

the duty may be confided. These are, Regulation XXXVI. of 1793, for the Lower Provinces, corresponding with Regulation XVII. of 1803, for the Ceded Provinces (extended to the conquered provinces by Clause 1, Section 17, Regulation VIII. of 1805), Regulation XX. of 1812, Regulation IV. of 1824, Act XXX. of 1838, and Act XIX. of 1843.

4. By Section 3, Regulation XXXVI. of 1793, (Regulation XVII. of 1803, for the Ceded Provinces,) and Sections 3 and 5, Regulation XX. of 1812, registers are required to register memorials of the following deeds :

- 1stly, Deeds of sale, or gift, of lands, houses, and other real property.
- 2ndly, Deeds of mortgage on lands, houses, and other real property, as well as certificates of the discharge of such incumbrances.
- 3rdly, Leases and limited assignments of land, houses, and other real property, including, generally, all conveyances used for the temporary transfer of real property.
- 4thly, Wuscut-namahs, or wills.
- 5thly, Written authorities from husbands to their wives to adopt sons, after their (the husbands') demise.
- 6thly, Engagements contracted by indigo planters, whether Europeans or natives, with ryots and others, for the delivery of indigo plant.
- 7thly, Bonds, promissory notes, and generally all obligations for the payment of money : held by con-

struction No. 1270, to include security bonds for the eventual payment of costs of suits. It is enacted by Clause 1, Section 8, Regulation XXXVI. of 1793, (Regulation XVII. of 1803, for the Ceded Provinces,) and Section 7, Regulation XX. of 1812, that each species of deed shall be registered in a separate book, which shall be uniformly made of English paper, and *carefully* bound ; and by the latter Regulation and Section, registers are expressly prohibited from admitting to registry any deeds, except those above specified.— Each leaf of every register book is required by Section 8, Regulation XXXVI. of 1793, (Regulation XVII. of 1803, for the Ceded Provinces,) to be paged, and every deed entered in such books must be numbered in an annual series, and the date of the month, and the year, as well as the time of day when registry may have been effected, must be noted in the book, in which the said deed may be registered.

5. The Court, before detailing the forms to be observed in the registry of deeds, desire to remind registers that they are required by Section 10 of the last cited Regulation, not only to preserve carefully, all powers of attorney produced by parties attending on the part of others to procure deeds to be registered, but to cause copies of all such documents to be regularly transcribed in a *separate* book, which must be kept for that purpose. This injunction is reiterated in a construction of the Sudder Dewanny Adawlut, No. 732, dated 9th November, 1832.

6. It is also deemed expedient to advert to the

provisions of Section 7, Regulation XXXVI. of 1793, (Regulation XVII. of 1803, for the Ceded Provinces,) which enacts, that the registry of all deeds shall be made in the register's office of the zillah, in which the property affected by them may be situated; and to construction, Sudder Dewanny Adawlut, No. 1015,* dated 17th June, 1836, which rules, that the registry of a deed, in any other district than that in which the land is situated, must be regarded as unofficial, and as depriving the said deed of the advantages conferred by existing Regulations and Acts on registered deeds.

7. The Court proceed to point out the rules prescribed for the registry of deeds, merely observing that the forms established by Regulation XXXVI. of 1793, (Regulation XVII. of 1803, for the Ceded Provinces,) having been found to involve delay and inconvenience, have undergone modification by the enactment of Regulation XX. of 1812.

1stly, It is incumbent on all registers of deeds to attend daily at office, during certain specified hours, for the despatch of all business appertaining thereto, and, after having determined the hours of such attendance, to affix a written notice thereof in some conspicuous part of their offices for general information.

2ndly, The registers of deeds† will restrict themselves to the ascertainment of the fact, that the deed prescribed for registry has been actually

* Act IV. 1845, promulgated subsequently to the preparation of this Circular supersedes the provision of Section 7, Regulation XXXVI. 1793, and the Construction (No. 1015) above noticed.

† Clause 1, Section 2, Regulation XX. of 1812.

and duly executed by the parties,thereto. With this view, before admitting any deed to registry, the register will require the attendance at his office of the person desirous of procuring registration of any deed, or his authorized representative, together with the original deed and an exact copy thereof, "attested by one at least of the parties to the instrument, and by one of the witnesses to the execution of it."—The register on having ascertained, by the evidence on oath of one or more witnesses to the execution, that the deed has been duly executed, should satisfy himself that the copy corresponds precisely with the original deed and should reject any transcripts, in which interpolations, interlineations, or crasures may be apparent, refusing registry until a fair legible copy be presented. This will entail no expense on parties, as it has been declared, by construction No. 119, dated 28th January, 1813, that copies of deeds, brought for registry, being intended only for record, should be admitted to be drawn out on plain paper.

3rdly, It will not escape the observation of registers of deeds that agreeably to Clause 1, Section 5, Regulation XX. of 1812, bonds, promissory notes, and other obligations for the payment of money, can be registered only on the application of the party, by whom they may have been executed.

4thly, The register, having noted on the back of the copy, presented and compared as above, the

date and the hour of the day on which it was brought for the purpose of being registered,* and having caused it to be filed according to the order of time, in which it may have been received, must have it entered in the register book in the same order; and on completion of the entry in the manner stated, it is required to return the original deed to the person from whom it may have been received, with a certificate under his signature endorsed on the deed, specifying the date and the hour on which it was registered, and the page on which it is entered in the register book.

5thly, By Clauses 4 and 5 of the same Section and Regulation, registers are bound, on application being made to them, to allow parties to inspect the copies of deeds, attested, endorsed and filed as above, as well as the register books, and to grant copies of all deeds registered by them to those whom they may concern. Directions regarding the value of stamp paper, on which such copies should be engrossed will be found in a construction of the Sudder Dewanny Adawlut, No. 428, dated 4th August, 1826, and Regulation X. of 1829, Schedule A, articles 20 to 23, and Schedule B, article 3.

8. The remuneration to which registers of deeds are declared by Section 4, Regulation XX. of 1812, to be entitled, is as follows:

1stly, A fee of two rupees for every engagement or deed registered by them, to be paid by the party causing the same to be registered.

2dly, A fee of one rupee for every copy furnished of a deed registered by them, to be paid by the applicant for the said copy.

3rdly, A fee of half a rupee for every search made on an inspection of the register books, to be paid by the party inspecting the same; and until these fees be paid, they are authorized to refuse the official acts required from them.

9. A preferential right having been declared by Section 2, Act XIX. of 1843, to attach to deeds of sale or gift of lands, houses, or other real property, as well as deeds of mortgage on lands and the same descriptions of property, a memorial of which shall have been duly registered according to law, it is obviously desirable that facilities for such registration, on which the security of property will be greatly dependent, should be multiplied; that the duties of the office should be conducted with the utmost regularity, and with the strictest adherence to the forms prescribed by the regulations above cited, and that no interruption to the fulfilment of those duties should be suffered, by the temporary absence or incapacity of the register. By the establishment of a separate office for the register of deeds at every civil station in the Lower Provinces every facility* that the law permits will be afforded, while a due observance of the preceding instructions, which have been advisedly drawn out in greater detail

than may at first sight appear requisite, will secure, it is hoped, the punctual and correct registration of every deed, presented for that purpose. Further, the prevention of the interruptions above alluded to, is provided for by Regulation IV. of 1824, which authorizes the registers of deeds at sudder stations, in cases of temporary incapacity from any cause, or absence from the station, to appoint a deputy, to act for them, having first obtained the sanction of the judge of the civil court, to which they may be attached; and by Section 6, Act XXX. of 1838, which empowers the zillah judges, in the like cases of death, absence, or temporary incapacity, to appoint any person, whom he may think proper, to take temporary charge of the offices constituted by the said Act. It is only needful, as regards these provisions, to remark that at sudder stations no other officers than principal sudder ameen, and covenanted servants of Government, among whom surgeons are declared by construction No. 611, to be included, are eligible; while at a station where no civil court is located, the same restriction does not exist.—It is the duty of the judges to see that every vacancy is filled up under the provisions above cited, and to satisfy themselves that registers of deeds, before entering on the duties of the office, are fully conversant with the Regulations by which their proceedings must be guided, and with the instructions contained in this circular order.

10. As regards registers of deeds at the stations of zillah and city courts, an obligation is imposed on

the civil judges of supervising their conduct, of countersigning the endorsements on the copies of deeds, required by the provisions of Regulation XX. of 1812, to be filed, and the transcripts thereof in the register books, and of reporting any errors or irregularities, or any deviations from the established regulations, which he may detect in the performance of the duties confided to the officers in question; and the Court expect that these obligations will in future be punctually fulfilled. This control has been dispensed with as concerns registers of deeds appointed under Act XXX. of 1838, by section 4 of that enactment; but the judges may still, by inspecting the register books sent to them for the purpose of being deposited with their records, ascertain whether the duties of the office have been conducted with due regularity and order.—And they are hereby required to observe this precaution, reporting, for the information of the Court, any illegal or erroneous acts thereby brought to light.

11. The Court, having reason to believe that the practice of preparing annual indexes to the register books, as directed by section 9, Regulation XX. of 1812, has fallen into disuse, are pleased to direct its immediate revival, and, with the view of establishing uniformity of system, to annex two forms according to which the index will be made out. Each of these indexes will terminate with the year.—To each a separate book, made of English paper, paged and carefully bound, must be assigned; and for the entries under each letter, one or more leaves must be set apart. The entries should be made at the time of registration, with the utmost accu-

No. 2.

Alphabetical Index of Property registered, for 1844.

Mouzah in which property is situated.	Pergunnah.	Specification of property.	Deeds of sale or gift.		Deeds of mortgage on land, &c.		Leases and conveyances for temporary transfer of real property.	
			Vol.	Page	Vol.	Page	Vol.	Page.

12. The civil judges will, at the close of each year, send to the Court a statement, as per margin,* shewing

* No. and specification of deeds registered.						Amount of fees received.	Certificate of examination and countersignature of register books.
Deeds of sale or gift.	Deeds of mortgage on land, &c.	Leases and conveyances for temporary transfer of real property.	Wills.	Authority to adopt.	Contracts for indigo.	Obligations for payment of money.	

the number of deeds which may have been registered during its course in the offices established for that purpose, and the amount of fees received by the register, and certify examination and countersignature by themselves of the several register books up to the close of the period; submitting, at the same time, any remarks that may occur to them on the working of the system. The first report embracing the period from the promulgation of Act XIX. 1843, to the close of 1844, will be submitted with or follow the annual civil statements.

REGULATION XXXVI. 1793.

A Regulation for establishing a Registry for Wills and Deeds, for the Transfer or Mortgage of Real Property.—Passed by the Governor General in Council on the 1st May, 1793.

[The provisions of this regulation were extended to Benares by Regulation XXVIII. 1795, and to Cuttack by section 32, Regulation XII. 1805.*]

1. To give security to the titles and rights of persons purchasing real property, or receiving such property in gift, or advancing money on the mortgage of it, or taking it on lease, or other limited assignment; to prevent individuals being defrauded by buying, or receiving in gift, or lending money on mortgage, or taking on lease any such property that may have been so previously disposed of, or pledged; to afford persons the means of obviating, as far as may be practicable, litigation respecting the authenticity of their wills, or any written authority they may grant to their wives to adopt sons after their death; and that individuals may be able to provide against any injury to their rights or property by the loss or destruction of deeds relating to transactions of the nature of those above specified, the following rules have been enacted.

* The corresponding regulation for the ceded provinces is XVII. 1803, extended to the conquered provinces by section 17, Regulation VIII. 1805.

2. An office for the registry of deeds, shall be established in each zillah, and in the cities of Patna, Dacca, and Moorshedabad. The superintendence of the office shall be committed to the register of the court of dewanny adawlut, who shall take and subscribe the following oath before the judge of the zillah or city, previous to his entering on the execution of the duties of the office.

“ I, A. B., solemnly swear, that I will truly and
 “ faithfully execute the office of register of deeds for
 “ the zillah or city of——, and that I will neither di-
 “ rectly nor indirectly derive any pecuniary or other
 “ benefit whatsoever from the said office, excepting
 “ such as is or may be allowed to me by this regula-
 “ tion, or by any regulation that may be hereafter pass-
 “ ed by the Governor General in Council, and printed
 “ and published in the manner directed in Regulation
 “ XLI. 1793.

“ SO HELP ME GOD.”

[By section 2, Act XXX. 1838, registry offices may also be established in any civil station.]

3. *First.* The register is authorised and required to register memorials of the following deeds.

Second. Deeds of sale, or gift, of lands, houses, and other real property.

Third. Deeds of mortgage on land, houses, and other real property, as well as certificates of the discharge of such incumbrances.

Fourth. Leases and limited assignments of land, houses, and other real property, including generally all conveyances used for the temporary transfer of real property.

Fifth. Wusseat-namahs or wills.

Sixth. Written authorities from husbands to their wives to adopt sons after their (the husbands') demise.

[By sections 3 and 5, Regulation XX. 1812, the following descriptions of deeds may also be registered :—

Engagements of ryots and others for delivery of indigo plants.

Obligations for the payment of money, if brought for registration by the obligor or his representative.]

4. It shall be left to the option of all persons to register or not, as they may think proper, any of the descriptions of deeds specified in the preceding section that have been executed, or which may be executed prior to the 1st of January, 1796. The not registering such deeds, shall in no wise operate to the prejudice of the rights of the parties thereto, which shall remain the same as if this regulation had never been enacted.

5. It shall also be left to the option of all persons to register or not, as they may think proper, the several descriptions of deeds specified in clauses fourth, fifth, sixth, of section 3, whether executed previous or subsequent to the 1st January, 1796. The not registering of the deeds specified in those three clauses, shall in no wise operate to the prejudice of the rights of the parties thereto, which shall remain the same as if this regulation had never been enacted.

6. *First.* Every deed of sale, or gift, of the description specified in clause second, section 3, that may be executed on or after the 1st January, 1796, and a memorial of which shall be duly registered according to this regulation, shall, provided its authenticity be established to the satisfaction of the court, invalidate any other deed of sale or gift for the same property, executed subsequent to the said date which may not have been registered, and whether such second or other deed shall have been executed prior or subsequent to the registered deed.

Second. Every deed of mortgage of the description specified in clause third, section 3, that may be executed on or after the 1st January, 1796, and a memorial of which shall be duly registered according to this regulation, and provided its authenticity be established to the satisfaction of the court, shall be satisfied in preference to any other mortgage on the same property executed subsequent to the said date which may not have been registered, and whether such second or other mortgage shall have been executed prior or subsequent to the registered mortgage.

[These two clauses are, with some modifications, re-enacted in section 2, Act XIX. 1843.]

Third. It being the object however of the rules in the two preceding clauses, to prevent persons being defrauded by purchasing, or receiving in gift, or taking in mortgage, real property which may have been before sold, given, or mortgaged, subsequent to the 1st January, 1796, and as persons can never suffer such imposi-

tion when they are apprised of the previous transfer or mortgage of the property, it is to be understood, that if any person shall purchase, receive in gift, or take in mortgage, any real property, knowing such property to have been previously sold, given, or mortgaged, to any other person subsequent to the 1st January, 1796, and that the deed of sale, gift, or mortgage, has not been registered, and shall register his own deed, in such case the deed of sale, gift, or mortgage of such subsequent purchaser, donee, or mortgagee, which may have been registered, shall not from the registry of it, invalidate, or be discharged in preference to the unregistered deed of sale, gift, or mortgage, first executed, provided the authenticity of the latter be established to the satisfaction of the court.

[This clause is repealed by Act I. 1843, from the 1st May of that year.]

7. The registry of all deeds shall be made in the register office of the zillah or city in which the property affected by them may be situated ; and if the property be situated in the jurisdictions of two or more of the courts of dewanny adawlut, the deeds affecting it shall be registered in the office of each jurisdiction.

[The former part of the foregoing section is superseded by Act IV. 1845.]

8. *First.* Each species of deed shall be registered in a separate book, each leaf of which shall be paged, and be attested by the judge of the dewanny adawlut of the zillah or city, who shall note in his own handwrit-

ing on the last page of each book, the number of pages contained in each book, and attest the note with his official signature. No register shall be deemed authentic excepting such as shall be so paged and attested.

[The attestation of each leaf by the judge is dispensed with by section 6, Regulation XX. 1812. In lieu thereof, the attested copies of deeds filed by parties and entered in the registry book, are to be countersigned by the judge.]

Second. Every deed entered in a register book, shall be numbered, and the date of the month and the year, as well as the time of the day when every deed may be registered, shall be noted in the margin of the register books, which shall be deposited amongst the records of the dewanny adawlut.

9. *First.* The following forms shall be observed in the registry of deeds.

Second. The person or persons executing the deed, or his or their authorised representative, with one or more of the witnesses to the execution of it, shall attend at the register office, and prove, by oath before the register, the due execution of the deed; upon which, the register shall cause an exact copy of the deed to be entered in the proper register book, and, after having caused it to be carefully compared with the original, shall attest the copy with his signature, and shall also cause the parties, or their authorised representatives in attendance, to subscribe their signatures to the copy in the presence of two credible witnesses, (whose names shall also be subscribed thereto,) and shall then

return the original, with a certificate under his signature endorsed thereon, specifying the date, and the time of the day on which such deed shall have been so registered, with references to the book containing the registry thereof, and the page and number under which the same shall have been entered therein.

[This section is modified by clauses 1, 2, and 3, section 2, Regulation XX. 1812.]

CONSTRUCTION No. 226, OF THE 3D NOVEMBER, 1815.

“ I am directed by the Sudder Dewanny Adawlut to acknowledge the receipt of a letter from the judge, under date the 22d July last with its enclosures, requesting the Court’s construction of Section 9, Regulation XVII. 1803,* relative to the forms to be observed in the registry of deeds.

The Court understand the intention of the section to be, that the person executing the deed, or his authorised representative (*mokhtar*,) must attend to acknowledge the execution, and that one or more witnesses to the execution of the deed must also attend to prove the execution by their testimony on oath.

When the person executing the deed may depute a *mokhtar* with a *mokhtarnamah*, instead of attending himself, to acknowledge the deed, the execution of the *mokhtarnamah* should also be proved by the examination of two witnesses on oath.

But the Court do not consider it to be required by the regulation cited, that either the party executing the deed, or his *mokhtar*, should be examined on oath.”

CONSTRUCTION No. 611, OF THE 25TH NOVEMBER, 1830.

“ I am directed by the Court of Sudder Dewanny Adawlut to acknowledge the receipt of your letter of the 17th instant, requesting to be informed whether persons, charged with perjury before a register of deeds, should be committed by the zillah judge, or prosecuted before the magistrate by the register of deeds.

* Corresponding with section 9 of this regulation.

2. The Court, considering the registry of deeds to be a "civil proceeding," contemplated by clause 2, section 14, Regulation XVII. 1817, are of opinion that, in cases of perjury before the register of deeds, the judge and register should proceed in conformity with the provisions of that clause."

CONSTRUCTION No. 438, OF THE 26TH NOVEMBER, 1826.

"Par. 3. The only point upon which the Court deem it necessary to pronounce an opinion is, as to whether the register was or was not competent to decline registering a deed, brought to him for that purpose, on paper not bearing the prescribed stamp : and on this point I am desired to observe, with reference to the provisions contained in clause 3, section 6, Regulation XVI. 1824, and clause 1, section 7 of the same enactment,* to which your attention is particularly directed, that it was not only competent to, but incumbent on, the register to decline registering an instrument not drawn upon the paper required by that regulation, provided that, with reference to section 8, the irregular stamp does not equal or exceed in value the stamp which ought to have been used. If it equal or exceed the regular stamp in value, the register has, clearly, no right to take exception to it, or to decline registering the deed so stamped."

Note. By Section 24, Regulation VII. 1800, applications for the registration of deeds, and copies furnished by the register, were required to be written upon stamp paper. Although that regulation has been repealed, and the stamp law now in force contains no express provision on the subject, the rule as regards such applications must be considered to be still applicable—as the office of register of deeds was in all cases held by the registers of the zillah courts. As regards copies furnished by the register of deeds, provision is made in Schedule A, Regulation X. 1829. See the table of Stamps in the Appendix.

CIRCULAR ORDER No. 185, OF THE 2D SEPTEMBER, 1836.

"The Court, having reason to believe that it is still the practice in some districts, to require persons, who bring deeds for registry, to

* The stamp law of the time, superseded by Regulation X. 1829.

sign the copy made in the registry book, as directed by section 9, Regulation XXXVI. 1793, and section 9, Regulation XVII. 1803, direct me to request that you will inform the register of deeds of your district that as the provisions of the sections above cited, have been superseded by section 2, Regulation XX. 1812, he should abstain from the practice, if it obtains in his office."

CONSTRUCTION No. 1218, OF 1839.

"Held, on a reference from the judge of Mymensing, that a hibah-nameh, or deed of gift, could not be registered after the death of the donor, and that the register of deeds was quite right in refusing to register it."

CONSTRUCTION 1230, OF 1839.

"Held, on a reference from the judge of Allahabad, that officers appointed to register or authenticate deeds, would not be justified in refusing to attest or register any document presented to them for that purpose, by reason of its being written in the Persian language."

CONSTRUCTION No. 1351, OF 1842.

Extract from a letter from the judge of Backergunge.

"Par. 2. A petition has been presented to this court by A. stating that—on the rejection, by the officer in charge of the registry office, of a deed of sale executed by him in favor of B., on the ground of a similar deed, purporting to have been executed by him in favor of C., a third party, having been already registered by a person acting under A.'s mookhtarnamah, duly attested and sworn to by witnesses,—A. applied by written petition to the officer before mentioned, alleging that the deed and mookhtarnamah were both forgeries, and requesting that such proceedings should be taken as might protect his interest from prejudice, but that this petition was rejected without any reasons assigned. Now, as the order on the petition does not state whether any and what enquiry into the validity of the mookhtarnamah was instituted, subsequent to the date of the petition, I should think the proper course for the ends of justice would be to direct the register to institute an enquiry, if it had not been done, both as to the mookhtarnamah and deed of sale already registered, and, if they, or at any rate if the mookhtarnamah, appeared to be a forgery, to cause the delinquents to

be proceeded against by application to the judge for commitment for forgery, or perjury, or both, as might be warranted.

“ 3. I cannot however discover anything in the Regulations authorising such interference of the judge with the proceedings of the officer in charge of the office for the registry of deeds : on the contrary, he is directed to bring any irregularities to the notice of Government, and therefore, particularly as the case is a novel one, I have decided on applying for instructions.

“ 4. Another point apparently requires to be cleared up : on the mookhtarnamah, or registered deed, being proved before a competent tribunal to be a forgery, it would, I conceive, be the duty of the registering officer to cancel the registry already made and to admit the deed now tendered to registry. Would the judge be competent, under these, or any other circumstances, to receive an appeal brought with a view to compel the registering officer to register, or cancel the registry of a deed, on his refusal to do either ? ”

Extract from the reply of the Calcutta Court.

“ The register should register the deed brought to him for that purpose, leaving it to the courts to declare which of the two deeds of sale is the true and valid document, whenever that question may be raised in a regular suit. The register, however, must satisfy himself of the identity of the party registering the deed, if the latter appear in person, or, if by attorney, ascertain the due attestation and validity of the mookhtarnamah.”]

10. The certificate of the register, endorsed agreeably to the forms described in clause second of the preceding section, shall be considered in all courts of justice to be sufficient evidence of the registry.

11. The register shall, on application being made to him, allow all persons to inspect the register books, as well as grant copies of all deeds registered by him to persons whom they may concern ; and such copies, in

the event of the originals being lost, destroyed, or not forthcoming, shall be received as sufficient evidence of such deeds in all courts of justice whatever, proof being made by the subscribing witnesses to the original deed, that the original was duly executed.

[By clause 4, section 2, and clause 7, section 3, Regulation XX. 1812, the attested copies which are filed may also be inspected.]

12. If any person or persons shall at any time be suspected, on sufficient grounds for commitment, of counterfeiting or falsifying any entry in any of the register books ordered to be kept, or any certificate such as is directed to be granted, by this regulation, he or they shall be prosecuted on the part of Government in the criminal court of judicature, and the several registers shall, as agents for the prosecution, adopt every legal measure in their power for the proof of the crime, and the due execution of the laws against the offender.

13. Every register shall attend at his office for the despatch of all business belonging thereto, during certain specified hours each day, between sunrise and sunset (Sundays and holidays excepted,) and, after determining the particular hours of such attendance, he shall affix a written notice thereof in some conspicuous part of his office for general information.

14. The register shall be allowed a fee of two rupees for every deed registered by him, to be paid by the party causing the same to be registered, and no more; a fee of one rupee for every copy furnished of a deed registered by him, to be paid by the party ap-

plying for such copy, and no more ; and a fee of half a rupee for every search made on an inspection of the register, to be paid by the party inspecting the same, and no more. The register is authorised to refuse the official acts required from him until these fees be paid ; and from such fees he shall provide the necessary native officers to make the entries and copies directed, as well as the requisite stationery.

[By section 5, Act XXX. 1838, copies of deeds in any European language, are to be paid for at section rates.]

15. The several registers are permitted, in case of absence from their stations, sickness, or any other disqualification from personal attendance to the duties of their office, to appoint (with the approbation of the judge to whom they may be registers respectively) a deputy being a covenanted servant of the Company, and duly qualified to act for them, and such deputy, so appointed and approved, after taking a similar oath to that prescribed for the register, shall be authorised to perform the several acts which the register is hereby empowered to perform. This permission, however, is to be expressly confined to the cases stated ; and the registers, when present at their stations, are not to be allowed to employ any deputy, but are to be required to discharge personally, the duties of the office committed to them.

[This section is modified by Regulation IV. 1824.]

16. This regulation is to be in force from the 1st January, 1796, and the judges of the several zillahs and cities in Bengal and Orissa, are to transmit a copy of

the Persian and Bengal translate of it to every cazi in their jurisdiction ; and the judges of the zillahs in Behar, and of the city of Patna, are to transmit a copy of the Persian translate of it, to each of the cazis in their respective jurisdictions.

REGULATION XXXIX. 1793.

A Regulation for the appointment of the Cazi-ul-Cozaat, or Head Cazi of Bengal, Behar, and Orissa, and the Cazis stationed in the several Districts, and prescribing their respective Duties.—Passed by the Governor General in Council on the 1st May, 1793.

1. CAZIS are stationed at the cities of Patna, Dacca, and Moorshedabad, and the principal towns, and in the pergunnahs, for the purpose of preparing and attesting deeds of transfer and other law papers, celebrating marriages, and performing such religious duties or ceremonies, prescribed by the Mahomedan law, as have been hitherto discharged by them under the British Government, and also for superintending the sale of distrained property, and paying charitable and other pensions and allowances, under Regulations XVII. and XXI V. 1793. The nature of the above-mentioned duties renders it necessary that persons of character, and duly qualified with respect to legal knowledge, should be appointed to these offices ; and to encourage them to discharge their trusts with diligence and fidelity, they should not be liable to removal, unless proved to be incapable or guilty of misconduct to the satisfaction of the Governor General in Council. The following rules have been accordingly enacted.

2. *First.* The cazi-ul-cozaat, or head cazi of Bengal, Behar, and Orissa, shall be appointed by the Governor General in Council, and shall not be removable from his office, but for incapacity, or misconduct in the discharge of his public duty, or acts of profligacy in his private conduct, proved to the satisfaction of the Governor General in Council.

Second. The head cazi is to use a circular seal, two inches in diameter, on which shall be inscribed the designation of his office, and his name, in the Persian language, as follows: “ The seal of the cazi-ul-cozaat of the provinces of Bengal, Behar, and Orissa.” (*Name of the head cazi.*)

3. *First.* The cazis, stationed in the cities, towns, or pergunnahs in the three provinces, shall not be removable from their offices, excepting for incapacity or misconduct in the discharge of their public duty, or acts of profligacy in their private conduct. The cazis so stationed, are to use a circular seal, one inch and a half in diameter, on which shall be inserted the designation of their office, and their name, in the Persian language as follows: “ The seal of the cazi of the city (town, pergunnah or pergunnahs) of———.” (*Name of the cazi*)

Second. The rule contained in the preceding clause, is not to be construed to preclude the Governor General in Council from abolishing the office of cazi at any place, where from the number of cazis stationed in

the district, or other cause, the continuance of such an officer may appear to him unnecessary.

[Under section 4, Regulation VIII. 1809, the appointment and removal of town and pergunnah cazis rest with the Sudder Dewanny Adawlut.]

7. The head cazi, and the cazis stationed in the cities, pergunnahs, and towns, are to keep copies of all deeds, and law or other papers, which they may draw up, or attest, and are to affix thereto their seals and signatures. They are likewise to keep a list of all such papers, and in the event of their death, resignation or removal, the list and papers are to be delivered complete to their successors.

[CONSTRUCTION No. 1042, 19TH AUGUST, 1836.

“For all offices analogous to those which, under English courts are included in the ecclesiastical department, such as the celebration of marriages and the performance of religious duties or ceremonies, the acts of any cazi, though not specially empowered for the immediate locality, would be valid and lawful ; but the drawing up and attestation of papers and making a record of them must be performed (to be legal) by the cazi of the jurisdiction in which the property specified may be situated.”

Circular Order, No. 21, of the 28th September, 1838.

“On a review of the returns to the circular orders of the 24th November last, on the subject of the records of pergunnah cazis, the Court find that there is no uniform system of registry in use and that the records are, in some instances only, deposited in the office of the judge, in consequence of which they are exposed to

loss and damage. With a view therefore to the better attainment of the objects of the registration of deeds by the pergunnah cazis, the Court request that you will direct those officers to enter copies of all deeds attested by them in books, to be furnished to them by you, paged throughout, and attested with your initials, and properly bound up ; to forward to you monthly a list, drawn up in the annexed form, of the deeds so attested and registered ; and to forward the books themselves to your office, when filled up, for the purpose of being deposited among your records for preservation as well as future reference.

Form of List.

No. of the deed in the registry.	Page of the registry in which the deed is entered.	Date of deed, and names of the parties and subscribing witnesses there- to.	Date of attestation and names of parties and witnesses present on the occasion.	Description of deed.

● *Circular Order, No. 61, of the 6th December, 1839, para. 5.*

“No cazi should be permitted to delegate any of his essential functions, such as the power of affixing the seal of office to documents, to an irresponsible agent not recognised by law ; as the residence of a cazi at a distance from his nominal jurisdiction and his ap-

pointment of a naib to act under his sunnud by proxy, are opposed to the obvious use and purpose of the office and irreconcilable with a due discharge of its duties."]

8. The cazis stationed in the cities, towns, and pergunnahs, are not to exact any fees for drawing up or attesting papers, or for the celebration of marriages, or the performance of any religious duties or ceremonies which it has been customary for them to perform, excepting such as the parties concerned may voluntarily agree to pay, as has been hitherto the practice.

10. The judges in Bengal and Orissa are to furnish the cazis stationed in their respective jurisdictions, with copies of the Persian and Bengal translates of all regulations, printed and published in the manner directed in Regulation XLI. 1793. The judges in Behar are to furnish the cazis stationed in their respective jurisdictions, with the Persian translates of all such regulations.

REGULATION XLVIII. 1793.

A Regulation for forming a Quinquennial Register of the Landed Estates in Bengal, Behar, and Orissa, subject to the payment of Revenue to Government, and of the amount of the fixed Annual Revenue payable to Government from each Estate. Passed by the Governor General in Council, on the 1st May, 1793.

24. *First.* The collectors will be furnished through the following channels, with the necessary information regarding the mutations in landed property, and the annexations to, or separations from, their respective zillahs, for making the requisite entries in the register of intermediate mutations.

Second. The zillah and city courts are required by section 9, Regulation IV. 1793, to transmit to them copies of all decrees that they may pass, or which may be sent to them to be enforced by the provincial courts of appeal, or the Sudder Dewanny Adawlut, in any respect relating to the proprietary right in lands paying revenue to Government.

Third. The Board of Revenue are to furnish them with the necessary particulars regarding all such lands as may be disposed of by them at public sale at Calcutta.

Fourth. In cases in which lands may be ordered to be sold at their cutcherries, they will have in their own possession the authority for the sale, and all the necessary information regarding the property transferred.

Fifth. They will likewise have in their possession the requisite information respecting the division or the union of estates which may take place under Regulation XXV. 1793, that regulation directing that the division and union of all estates are to be made under their superintendence.

Sixth. By section 10, Regulation I. 1793, transfers of estates or portions of estates must be notified to them before the name of the new proprietor can be inserted in the register directed to be kept by Regulation XLVIII. 1793.

Seventh. The keepers of the registers established by Regulation XXXVI. 1793, are required by that regulation to furnish them with the particulars of all transfers of landed property that may be entered in their registers.

REGULATION XX. 1812.

A Regulation for modifying some of the provisions contained in the existing regulations respecting the Registry of Deeds, and for establishing a Register of Engagements for the delivery of Indigo.—Passed by the Governor General in Council, on the 17th October, 1812.

1. WHEREAS Regulation XXXVI. 1793, (extended to Benares by Regulation XXVIII. 1795,) and Regulation XVII. 1803, contain provisions for registering memorials of deeds of sale or gift of lands, houses, and other real property ; of deeds of mortgage on land, houses and other real property, as well as certificates of the discharge of such incumbrances ; of leases and limited assignments of land, houses, and other real property, including generally all conveyances used for the temporary transfer of real property ; of wusseat-namahs or wills, and written authorities from husbands to their wives to adopt sons after their (the husbands') demise : and whereas inconvenience has been experienced from the delay attendant on the forms at present established for registering the said deeds : and whereas it will tend to obviate disputes and prevent frauds in the performance of engagements for the delivery of indigo, to afford to the parties or either of them, the means of registering such engagements : and whereas the convenience of the public will be further promoted by the establishment

of a separate register of obligations for the payment of money; the following rules have been enacted, to be in force from the period hereafter specified, throughout the territories dependent on the presidency of Fort William.

2. *First.* Whenever any person may be desirous of procuring any deed of the description of those specified in section 3, Regulation XXXVI. 1793, and in the corresponding rules of Regulation XVII. 1803, to be registered, he shall attend either in person, or by an authorised representative, at the office of the register with the original deed and an exact copy of it, attested by one at least of the parties to the instrument, and by one of the witnesses to the execution of it. The register, after having adopted the prescribed measures for ascertaining the validity of the original, and having compared with it the copy above required to be furnished, shall without loss of time specify on the back of the latter, the date and hour of the day on which it was presented for the purpose of being registered, shall cause it to be filed according to the order of time in which it may have been received, and entered in the register book according to the same order, certifying in the said book the day and hour on which the entry was completed and inspected by him.

[See Constructions 226 and 1218, entered under section 9, Regulation XVII. 1803.

CONSTRUCTION NO. 119, OF THE 28TH JANUARY, 1813.

"The Court are of opinion that copies of deeds brought for registry as directed in section 2, Regulation XX. 1812, being intended merely for record, should be admitted to be drawn out on plain paper."

The Circular Order, No. 35, of the 22d April, 1813, is to the same effect.]

Second. On completion of the entry in the manner above stated, the register shall return the original deed to the person from whom it may have been received, with a certificate under his signature endorsed on the deed, specifying the date and the hour of the day on which it was registered, and the page on which it is entered in the register book.

Third. The entry in the register book, shall in all practicable cases, be made at the time of endorsing the copy required to be furnished; but the insertion of it shall on no account be postponed beyond the day on which the endorsement may be made.

Fourth. The register shall, on application being made to him, allow all persons to inspect the copies of deeds attested, endorsed, and filed in the manner prescribed in the preceding clause, as well as the register books.

Fifth. In like manner, the register shall, on application being made to him, grant copies of all engagements registered by him to persons, whom they may concern; and such copies, in the event of the originals being lost, destroyed, or not forthcoming, shall be received as sufficient evidence of such deeds in all courts of judicature whatever; proof being made by the subscribing witnesses to the original deed, that the original was duly executed.

3. *First.* The person holding the office of register of deeds for the conveyance of landed property, is likewise hereby authorised and required, from and after the 1st of January, 1813, corresponding with the 19th Poose 1219 Bengal era, the 14th Poose 1220 Fusily, the 20th Poose 1220 Willaity, the 14th Poose 1869 Sumbut, and the 27th Zcheza 1227 Higeree, to register engagements contracted by indigo planters, whether Europeans or Natives, with the ryots and others, for the delivery of the indigo plant.

Second. A separate register book shall be kept for the registry of contracts of the description of those specified in the preceding clause.

Third. It shall be optional with persons contracting engagements for the delivery of indigo to register them, or not, as they may judge proper: but every engagement contracted for the delivery of indigo after the 1st day of January, 1813, which may be duly registered according to the provisions of this regulation, shall, in case it be in other respects a legal and bonâ fide engagement, be satisfied in preference to every other contract for the delivery of indigo, being the produce of the same ground, which may not have been registered, whether the last mentioned deed shall have been executed previously or subsequently to the registered deed.

Fourth. Whenever any person may be desirous of procuring any engagement for the delivery of indigo to be registered, he shall attend either in person, or by an authorised representative, at the office of the register,

with the original deed and an exact copy of it, attested by one at least of the parties to the instrument, and by one of the witnesses to the execution of it. The register, on having ascertained by evidence on oath that the original was duly executed, and having compared with it the copy above required to be furnished, shall without loss of time, specify on the back of the latter, the date and hour of the day on which it was presented for the purpose of being registered, and shall cause it to be filed according to the order of time in which it may have been received, and entered in the register book according to the same order; certifying in the said book, the hour and day on which the entry was completed and inspected by him. The entry in the register book, shall in all practicable cases, be made at the time of endorsing the copy required to be furnished; but the insertion of it shall on no account be postponed beyond the day on which the endorsement may be made.

Fifth. On completion of the entry in the manner above stated, the register shall return the original deed to the person from whom it may have been received, with a certificate under his signature endorsed on the deed, specifying the date, and the hour of the day on which it was registered, and the page on which it is entered in the register book.

Sixth. The certificate of the register, endorsed on the original deed, in the manner stated in the preceding clause, shall be deemed in all courts of judicature, sufficient evidence of the registry.

Seventh. The register shall, on application being made to him, allow all persons to inspect the copies of engagements for the delivery of indigo attested, endorsed, and filed in the manner prescribed in clause fourth, of the present section of this regulation, as well as the register book in which such engagements may have been entered.

Eighth. In like manner the register shall, on application being made to him, grant copies of all engagements registered by him, to persons whom they may concern ; and such copies, in the event of the originals being lost, destroyed, or not forthcoming, shall be received as sufficient evidence of such deeds in all courts of judicature whatever ; proof being made by the subscribing witnesses to the original deed, that the original was duly executed.

4. The register shall be allowed a fee of two rupees for every engagement registered by him, to be paid by the party causing the same to be registered, and no more ; a fee of one rupee for every copy furnished of a deed registered by him, to be paid by the party applying for such copy, and no more ; and a fee of half a rupee for every search made on an inspection of the register book, to be paid by the party inspecting the same, and no more. The register is authorised to refuse the official acts required from him until these fees be paid, and from such fees he shall provide the necessary native officers to make the entries and copies directed, as well as the requisite stationery.

5. *First.* The person holding the office of register of deeds, is likewise hereby authorised and required from and after the 1st of January, 1813, corresponding with the 19th Poose 1219 Bengal era, the 14th Poose 1220 Fussily, the 20th Poose 1220 Willaity, the 14th Poose 1869 Sumbut, and the 27th Zeheza 1227 Higeree, to register bonds, promissory notes, and generally all obligations for the payment of money. Provided however, that such registry shall only be made on the application, in person or by representative, of the party by whom the said bonds, promissory notes, or other obligations may have been executed.

Second. A separate register book shall be kept for the registry of obligations of the description of those, specified in the preceding clause.

Third. The rules contained in clauses fourth, fifth, sixth, seventh and eighth, of sections 3 and 4, of the present regulation, shall be considered applicable to the registry of bonds, promissory notes, and other obligations for the payment of money, with the restriction already stated, respecting the party on whose application such registry is to be made.

[CONSTRUCTION No. 1270, OF 1840.

“Held that security bonds for the eventual payment of costs of suit, may be registered under the provisions of section 5, Regulation XX. 1812.”

The Circular Order No. 77, of the 16th April, 1840, is to the same effect.]

6. *First.* Such part of section 8, Regulation XXXVI. 1793, and of the corresponding rules in Regulation XVII. 1803, as requires that each leaf of the different register books shall be attested by the judges of the zillah or city court, is hereby rescinded.

Second. In order at the same time to establish a proper control over the conduct of the public officers entrusted with the discharge of the duty of registering deeds, it is hereby enacted, that the endorsement on the copies required to be kept of the said deeds by the provisions of this regulation, and the transcripts thereof in the register book, shall be both countersigned by the judge of the adawlut, within one month of the date of registry, unless prevented by absence ; and in that case within one month after his return.

Third. On affixing his name to the copies of the deeds and to the register books, it shall be the duty of the judge to report to the secretary to Government in the judicial department, for the information of the Governor General in Council, any errors or irregularities, or any deviation from the established regulations, which he may have discovered in the conduct of the business confided to the register of deeds, or to his native officers.

7. It is hereby declared, that the registers are not warranted in registering deeds of any description, excepting those specified in Regulation XXXVI. 1793, and Regulation XVII. 1803, and in the present regulation. The register books shall in future be uniformly

made of English paper, and carefully bound.

[CONSTRUCTION No. 812, OF THE 16TH AUGUST, 1833.

"From the Officiating Commissioner of Circuit, 10th division.

I have the honor to report, for the information of the Court of Sudder Dewanny Adawlut, that, on the occasion of my late circuit in this division, I inspected the register books of deeds in the zillahs of Sarun, Shahabad, and Tirhoot. In the two former, they appeared to be kept up in conformity with the regulations.

2. At Tirhoot, the practice of registering mookhtearnamahs still prevailed, an irregularity noticed in my letter to your address under date the 24th of September, 1831. * * *

3. I deem it incumbent on me at the same time to notice a practice that prevails in Tirhoot, which I conceive to be infinitely more objectionable, and of the legality of which I am doubtful, viz. that of registering deeds called, or rather miscalled, *ijarnuamahs*, in a separate book kept for the purpose. The nature of the deeds I cannot better explain than by the following quotations of the purport of the last deed registered. 'Meer Muttooah, aged about 26, binds himself over for the period of 85 years, and his descendants for ever, for the sum of 18 rupees, to Omra Sing, vakeel of the civil court at Tirhoot.'

5. My object in now noticing these deeds, is to obtain the opinion of the Court of Sudder Dewanny Adawlut as to the legality of such transactions being registered under Regulation XX. 1812, or any other law enacted for the guidance of the register of deeds.

To the Officiating Commissioner of the 10th division.

I am directed by the Court to acknowledge the receipt of your letter of the 24th ultimo, reporting that you had examined the books of the offices of register of deeds in the districts of Sarun, Shahabad, and Tirhoot, on the occasion of your late circuit of the division.

2. In reply I am directed to observe that, as deeds of the description alluded to in your letter are not specified in Regulation XXXVI.

1793, (*corresponding with Regulation XVII. 1803,*) or Regulation XX. 1812, the registry of them is illegal under the prohibition contained in section 7 of the regulation last quoted ; and to request that you will communicate this opinion to the judge of Tirhoot, for the information and guidance of the register of deeds.]

8. It shall be the duty of the registers to keep an accurate account, in the English language, of the fees received by them on account of the registry of deeds.

9. It shall likewise be the duty of the register to prepare, as soon after the expiration of each English year as possible, an index to the register books.

10. The registers are also hereby required, not only to preserve with care the powers of attorney which may be produced by persons attending on the behalf of others to procure deeds to be registered, but likewise to cause all such powers to be regularly entered in a separate book, to be kept for that purpose.

[CONSTRUCTION No. 732, OF THE 9TH NOVEMBER, 1822.

“I am directed by the Court to acknowledge the receipt of your letter of the 17th ultimo and its enclosures, and in reply to inform you that the Court are of opinion that under section 10, Regulation XX. 1812, powers of attorney produced by persons attending on behalf of others to procure the registry of deeds, should be entered in a separate book, as directed by section 7 of the regulation.”]

REGULATION IV. 1824.

A Regulation to provide more effectually for the Office of Register of Deeds.—Passed by the Governor General in Council on the 12th February, 1824.

1. By section 15, Regulation XXXVI. 1793, and the corresponding provisions in Regulations XXVIII. 1795, XII. 1805, and XVII. 1803, for Benares, Cuttack, and the ceded and conquered provinces, the zillah and city registers, who are also registers of deeds under those regulations, are permitted, in case of absence from their stations, sickness, or any other disqualification from personal attendance, to appoint (with the approbation of the judge to whom they may be registers respectively) a deputy, being a covenanted servant of the Company, to act for them in the registry of deeds; and such deputy, so appointed and approved, after taking a similar oath to that prescribed for the register, is authorised to perform the several acts which the register is empowered to perform, under the regulations above-mentioned, and such as have been since enacted relative to the registry of deeds: but much inconvenience has been experienced by the community in consequence of registers, who may be on leave of absence, on deputation, or otherwise disqualified, omitting to appoint a deputy, in the mode prescribed; and also in conse-

quence of occasional vacancies in the office of zillah or city register, in which case no provision is made by the existing regulations for the performance of the duty of register of deeds. With a view therefore to provide against the recurrence of such inconveniences, and to supply what is defective in the existing regulations, the following rules have been enacted, to be in force from the date of their promulgation, in the provinces immediately subject to the Presidency of Fort William.

2. The office for the registry of deeds in the several zillahs and cities, which is provided for by Regulation XXXVI. 1793, extended to Benares by Regulation XXVIII. 1795, and to Cuttack by section 32, of Regulation XII. 1805, and re-enacted for the ceded provinces in Regulation XVII. 1803, extended to the conquered provinces and Bundelkund by clause first, section 17, Regulation VIII. 1805, shall, in all cases be established at the station of the zillah or city court, and shall, as directed by the regulations above-mentioned, be superintended by the register of the zillah or city court, or, where there may be more registers than one, by the register employed at the station of the zillah or city court, so long as he may continue to reside at such station, and, as already required by the regulations in force, he shall personally discharge the duties of the office committed to him, whilst present at the station, unless prevented by sickness, or otherwise; in which case, as well as in all cases of temporary absence from the station, he is permitted, as

heretofore, with the approbation of the judge of the zillah or city court to which he may be attached, to appoint a deputy, being a covenanted servant of the Company, and duly qualified, to act for him ; who after taking an oath, similar to that prescribed for the register of deeds, is authorised to perform the several acts which the register is empowered to perform.

3. Whenever a zillah or city register, vested with the superintendence of the registry office, may be absent from the station where the office is established, without having appointed a deputy, in pursuance of the foregoing section, the judge of the station is hereby authorised to appoint some duly qualified covenanted servant of the Company to act as deputy register of deeds, and the deputy so appointed, after being duly sworn, shall be authorised to perform the prescribed duties of the office.

4. It shall moreover be the duty of the zillah or city judge to appoint a qualified person, being a covenanted servant of the Company, to officiate as register of deeds, whenever, from a vacancy in the office of register, the nomination of a deputy cannot take effect agreeably to the preceding section.

[CONSTRUCTION No. 366, OF THE 25TH JUNE, 1824.]

“I am directed by the Court of Sudder Dewanny Adawlut to acknowledge the receipt of your letter of the 14th instant, and its enclosures, requesting to know whether Mr. W. B. Jackson, the officiating second register of your court, is authorised to register deeds while officiating as collector of the district, or whether he must be re-ap-

pointed to act in that capacity, under the provisions of Regulation IV. 1824.

2. As Mr. Jackson has been already appointed to officiate as register of deeds, the Court do not think it necessary that you should re-appoint him to officiate in that capacity, while acting as collector, under the regulation abovementioned."

CONSTRUCTION NO. 611, OF THE 25TH NOVEMBER, 1831.

PARA. 3. "With reference to the 5th paragraph of your letter, the Court direct me to inform you, that a civil surgeon comes within the class of covenanted servants of the Company, who, by sections 3 and 4, Regulation IV. 1824, are authorised to officiate as registers of deeds."

A similar construction was given by the Court on the 25th February, 1818, with reference to section 15, Regulation XXXVI. 1793.

CIRCULAR ORDER, NO. 36, OF THE 23D DECEMBER, 1831.

"I am directed by the Court of Sudder Dewanny Adawlut to transmit to you, for your information and guidance, the accompanying copy of a letter from the deputy secretary to Government in the judicial department, dated the 13th instant, communicating the opinion of Government, as to the manner in which the office of register of deeds is to be filled, when there is no register present at the station.

Copy of a letter from the Deputy Secretary to Government in the Judicial Department, dated the 13th December, 1831.

I am directed to acknowledge the receipt of your letter, dated the 18th ultimo, transmitting copies of two letters from the judge of Sarun, and in reply to inform you, that the Honorable the Vice-President in Council concurs with the Court, that section 4 of Regulation IV. 1824, is only applicable to cases of occasional vacancies in the appointment, and that under existing circumstances, as a general rule, the senior assistant at the station should be entrusted with the registry of deeds.

You are requested to furnish the necessary instructions to the several subordinate judges.'

CIRCULAR ORDER, No. 199, OF THE 24th FEBRUARY, 1837.

“ In continuation of the Court’s circular letter of the 23d December, 1831, No. 36, I am directed to forward to you, for your information and guidance, the accompanying copies of a letter addressed by their order on the 13th ultimo to the secretary to the Government of Bengal in the judicial department, and of the secretary’s reply, dated the 24th ultimo, declaring joint magistrates and deputy collectors of the second grade equally entitled with head assistants to hold the office of register of deeds.

Copy of a letter from the Register of the Sudder Dewanny Adawlut to the Secretary to the Government of Bengal in the Judicial Department, dated 13th January, 1837.

I am directed by the Court to acknowledge the receipt of your letter, No. 2347, dated the 27th ultimo, transmitting copy of a letter from Mr. Sandys, joint magistrate and deputy collector of the second grade, dated the 12th idem.

2. In reply I am directed to request that you will bring to the notice of the Right Honorable the Governor of Bengal, Mr. Deputy Secretary Thomason’s letter of the 13th December, 1831, conveying the opinion of the Honorable the Vice President in Council that, as a general rule, the senior assistant at the station should be entrusted with the registry of deeds, and to observe that the order of the Court in the present instance was founded on those instructions, which I am directed to state, have been circulated for the information and guidance of the Mollah judges.

Should the Right Honorable the Governor deem it expedient, however, to modify the order contained in Mr. Thomason’s letter, the Court see no objection to any covenanted officer, who may permanently reside at the sudder station, and who may have a fixed salary not exceeding 700 rupees a month, being permitted also to enjoy the emoluments attached to the registration of deeds.

Copy of a letter from the Secretary to the Government of Bengal to the Register of the Presidency Sudder Dewanny Adawlut, dated 24th January, 1837.

I am directed to acknowledge the receipt of your letter (No. 69,) with enclosures, under date the 13th instant, relating to the claim of head assistants to the registry fees, and in reply to state that joint magistrates and deputy collectors of the second grade, standing in the position of those officers lately denominated head assistants, are considered to have the same right to enjoyment of the fees in question as the head assistants.

2. His Lordship therefore requests that the Court will restore this privilege to Mr. Sandys, in whose case the question has been referred, and to adopt the above as a general rule in all similar cases."]

5. In the event of there being no covenanted servant at the station, to whom in the cases mentioned in the two preceding sections, the judge may deem it proper to confide the office of registering deeds, he is himself hereby authorised and required to perform the prescribed duties of the office.

[By section 4, Regulation VII. 1832, principal sudder ameens may be appointed.]

6. The registry of all deeds, which may have been hitherto duly executed by a zillah or city judge, or other covenanted servant, with his sanction, in the absence of the register, is hereby declared to be of equal validity, as if it had been executed by the zillah or city register.

7. The deputy or officiating register, appointed under sections 2, 3, or 4, of this Regulation, shall receive during the time of his officiating, the fees authorised by

the regulations ; but whenever the judge may perform the duty, under section 5, the net amount of such fees, after defraying the necessary expence of the establishment, shall be carried to the credit of Government.

REGULATION VII. 1832.

A Regulation for modifyiny certain of the provisions of Regulation V. 1831, and for providing supplementary rules to that enactment.—Passed by the Vice-President in Council on the 16th October, 1832.

4. IN modification of the rules contained in Regulation IV. 1824, relative to the registry of deeds, it is hereby declared that, whcnever a zillah or city judge may deem the appointment advisable, he shall, having previously obtained the consent of the Governor General in Council to that effect, be competent to make over to the principal sudder ameen at his station the duty of registering deeds, subject to all the existing rules prescribed for that duty, and such principal sudder ameen, while so officiating, shall receive the fees authorised by the Regulations for the performance of that duty.

ACT XXX. 1838.

Passed by the Hon'ble the President of the Council of India in Council on the 19th November, 1838.

1. It is hereby enacted, that sections 2 and 14, Regulation XXXVI. 1793, (the provisions of which were extended by Regulation XXVIII. of 1795,) Regulation XVII. of 1803, section 17, Regulation VIII. of 1805, section 32, Regulation XII. of 1805, section 4, and clauses 2 and 3, section 6, Regulation XX. 1812, and section 2, Regulation IV. of 1824, of the Bengal code, be modified.

2. And it is hereby enacted, that in addition to the offices to which those sections relate, offices for the registry of deeds may be established at any civil stations, and may be placed by the orders of Government under the superintendence of any officers resident at such stations whom Government may nominate for that purpose.

3. And it is hereby enacted, that the registration of deeds at any office of registry authorised by this Act, shall be subject to the payment of the same fees as are prescribed in section 14, Regulation XXXVI. 1793, for deeds registered at an office established at the station of a zillah or city court.

4. And it is hereby enacted, that section 15, Regulation XXXVI. 1793, and clauses 2 and 3, section 6, Regulation XX. 1812, of the Bengal code, shall not be held applicable to offices and persons established and appointed for the registry of deeds under this Act.

5. And it is hereby enacted, that persons desirous of registering deeds written in any European language at any office of registry in the territories subject to the presidency of Bengal, shall be required to pay for transcribing the same according to the established rates of section writing, in addition to the fees prescribed by section 14, Regulation XXXVI. 1793.

6. And it is hereby enacted, that in case of the death or absence on leave of any person appointed by Government to register deeds under this Act, it shall be lawful for the zillah judge or other officer specially authorised by Government, to appoint any person whom he may think proper to take temporary charge of the office, and to register deeds in the same manner as if such person had been appointed to the office by the orders of Government.

[With the exception of section 5, which relates to registry offices wherever established, this enactment has reference only to registry offices established at any station which is not the sudder station of a zillah judge.]

ACT I. 1843.

Passed by the Honorable the President of the Council of India in Council on the 27th January, 1843, with the assent of the Right Honorable the Governor General of India.

An Act for amending the Law concerning the Registration of written Conveyances and other instruments affecting titles and other interests to land.

WHEREAS the registry laws now in force in the respective mofussils of Bēngal, Madras, and Bombay, provide that registered conveyances and other instruments, affecting titles to land and other interests therein, shall not take precedence of unregistered conveyances and instruments in cases where the party registering shall have known of the existence of any such unregistered conveyances or other instruments. And whereas a complicated system of law has arisen out of the construction which is to be given to the provisions regarding the knowledge of parties, or notice had by them in such cases. And whereas much perjury has been committed in investigations touching the fact of such notice or knowledge, and much of the time of the courts has been occupied with such investigations. And whereas, in consequence of forgeries, perjuries, fraudulent concealments, and other practices, no person purchasing or

advancing money on the security of land, can safely rely on the conveyances or other instruments affecting the title to such lands or other interest therein, affording, by means of their being registered, a security against conveyances or instruments being set up, as of previous date, by unregistered claimants.

It is hereby enacted, that all provisions contained in any Regulation or Regulations of the Bengal, Madras, or Bombay codes, touching such knowledge or notice as aforesaid, of previous unregistered conveyances or instruments affecting titles to land or other interests therein, shall be repealed from the first day of May next; and every conveyance or other instrument affecting title to land, or any interest in the same authorised by those codes respectively to be registered, shall, so far as regards any lands to which the same relate, be void as against any person claiming under any subsequent conveyance or other instrument duly registered, unless the prior conveyance or instrument shall have been duly registered before the registration of the subsequent conveyance or instrument; any alleged notice or knowledge of such prior conveyance or instrument notwithstanding. Provided always that this Act shall not be construed to extend to any conveyance or other instrument made before the first day of May next.

[See the next Act.]

ACT XIX. 1843.

Passed by the Right Hon'ble the Governor General of India in Council on the 28th October, 1843.

An Act for amending the Law respecting the Registration of certain Deeds.

WHEREAS doubts have arisen as to the true meaning and construction of Act I. of 1843.

1. It is hereby enacted, that the said Act is repealed, except in so far as it repeals all provisions contained in any Regulation or Regulations of the Bengal, Madras, or Bombay codes, touching the knowledge or notice had by parties to registered conveyances and other instruments affecting titles to land and other interests therein, of the existence of unregistered conveyances or other instruments affecting such titles or other interests therein.

2. And it is hereby enacted, that from the first day of May last past, every deed of sale or gift of lands, houses, or other real property, a memorial of which has been or shall be duly registered according to law, shall, provided its authenticity be established to the satisfaction of the court, invalidate any other deed of sale or gift for the same property, which may not have been

registered, and whether such second or other deed shall have been executed prior or subsequent to the registered deed ;—and that from the said day every deed of mortgage on land, houses, and other real property, as well as certificates of the discharge of such incumbrances, a memorial of which has been or shall be duly registered according to law, and provided its authenticity be established to the satisfaction of the court, shall be satisfied in preference to any other mortgage on the same property, which may not have been registered, and whether such second or other mortgage shall have been executed prior or subsequent to the registered mortgage, any knowledge or notice of any such unregistered deed or certificate alleged to be had by any party to such registered deed or certificate notwithstanding. Provided always that nothing in this section contained shall be construed to extend to any deed or certificate made before the said first day of May last past.

3. And it is hereby declared and enacted, that no conveyance or other instrument affecting title to land, or any interest in the same, whether made before or after the first day of May last past, other than such deeds or certificates as aforesaid, are or shall be in any respect void for want of registration, any act or law to the contrary notwithstanding.

ACT No. IV. 1845.

*Passed by the Governor General of India in Council
on the 1st March, 1845.*

An Act to amend the Law regarding the Registration of Deeds.

1. IT is hereby enacted, that from and after the passing of this Act, deeds may be registered in any registry office within the presidency of Fort William in Bengal, whether such office be in the district where the property or any part thereof to which such deed relate, is situated or not.

2. Provided always, and it is hereby enacted, that when the registry office in which a deed is registered is in a district in which the whole of the property to which such deed relates is not situated, it shall be the duty of the register of the said office to forward to the office of the district or districts in which the whole or any part of such property is situated, a copy of the deed as registered and endorsed in his office, the said copies, to be furnished and attested as prescribed in clause 1, section 2, Regulation XX. 1812; and the register of any office receiving such copy so forwarded, shall duly register the same as if it had been presented to him in the first instance by the party registering.

3. And it is hereby enacted, that for every such copy required for transmission to any office as aforesaid the party registering shall pay the usual fee, and the register receiving the same shall duly account for the same to the several registers, to whose offices copies may be transmitted for registry.

4. And it is hereby enacted, that a memorial of any deed shall be held to be duly registered according to law, in respect to any property which may be situated in any one district, as soon as the original deed or a copy thereof (as the case may be) shall have been registered in manner aforesaid in the registry office of such district, whether or not a copy thereof have been registered in all or any of the other districts, in which the property to which the deed relates may be situated.

APPENDIX.

STAMPS ON WHICH DEEDS OF THE DESCRIPTIONS AUTHORISED TO BE REGISTERED, ARE TO BE WRITTEN ACCORDING TO SCHEDULE A, REGULATION X. 1829.

I. For Deeds of Sale or Gift of Real Property.

ARTICLE 18. CONVEYANCES, (kubalas, bynamas, hibanamas,) or deeds or instruments of any kind or description whatsoever executed for the sale or transfer for a consideration of any lands, tenements, rents, annuities, or other property, real or personal, heritable or movable, or of any right, title, interest or claim to or upon any lands, houses, rents, annuities or other property, that is to say, for or in respect of the principal or only deed, instrument, or writing whereby the property sold shall be conveyed to or otherwise vested in the purchaser, or purchasers, or to some other person, by his or their directions.

When the purchase or consideration		Rs.	As.
money therein expressed or denoted			
shall not exceed.....	50 Rs.	0	8
Above 50 Rupees, and not exceeding	100 „	1	0
„ 100 „ Ditto	200 „	2	0
„ 200 „ Ditto	500 „	4	0
„ 500 „ Ditto	1,000 „	8	0
„ 1,000 „ Ditto	2,000 „	12	0

Above 2,000	Rs. and not exceeding	3,000	Rs.	16	0
„ 3,000	„ Ditto	5,000	„	20	0
„ 5,000	„ Ditto	8,000	„	32	0
„ 8,000	„ Ditto	12,000	„	40	0
„ 12,000	„ Ditto	20,000	„	50	0
„ 20,000	„ Ditto	30,000	„	64	0
„ 30,000	„ Ditto	50,000	„	80	0
„ 50,000	„ Ditto	1,00,000	„	100	0
„ 1,00,000	„ Ditto	2,00,000	„	150	0
And for every further Lack of Rupees beyond two Lacks,				100	0

Note. When, of several deeds, instruments or writings, a doubt shall arise which is the principal, it shall be lawful for the parties to determine for themselves which shall be so deemed, and to engross the same on paper, parchment, vellum or the like, stamped for the prescribed *ad valorem* duty.

19. Provided, however, that in all cases where there are more deeds than one, all other deeds than the principal shall be charged with a like stamp to the principal deed if of value not exceeding eight rupees, (which sum shall be the maximum duty on collateral deeds,) and all such collateral deeds shall specify by their contents, which other is the principal deed by which the conveyance has been effected, certifying that it is executed in the manner and on material stamped as required.

Exemptions.

All grants, leases, sales, or the like, wherein Government, in its political or territorial capacity, is a party.

II. For Deeds of Mortgage on real property, and Certificates of the discharge of such incumbrances.

35. MORTGAGES. Any deed of mortgage or conditional sale, kutkubala, bye-bil-wufa, bhog-bhunduk, &c. with or without possession given, of or for any lands, estates, or property, real or personal, intended as a security for money due or to be lent thereupon : also, any deed or contract accompanied with a deposit of title deeds to any property, where the same may be made as a security for payment of money due or lent at the time, } Shall be charged after the same manner and at the same rates as if in lieu of such deeds of mortgage or the like, a bond had been taken for the sum due or lent at the time.

Note. When a bond may have been already taken for the amount secured, or where, from any other cause, the mortgage shall act merely as a collateral security to some other transaction already charged with the *ad valorem* duty thereupon, the same being specified in the body of the deed of mortgage, } The deed to be charged as a collateral deed. See Note after Conveyances.

Likewise, in case of there being more deeds than one required to execute the mortgage in the manner desired by the parties, the principal deed only shall be charged with the *ad valorem* duty, and all other deeds connected with the same transaction } Shall be charged as prescribed in the rule for collateral deeds under head Conveyances.

45. RECEIPTS OR DISCHARGES given for any,

upon the payment of any sum of money,						Rs.	As.
Exceeding 50 Rs.	but not exceeding 100 Rs.					0	2
" 100	" .. Ditto ..	200	"			0	4
" 200	" .. Ditto ..	500	"			0	8
" 500	" .. Ditto ..	1,000	"			0	12
" 1,000	" .. Ditto ..	2,000	"			1	0
" 2,000	" .. Ditto ..	3,000	"			1	8
" 3,000	" .. Ditto ..	5,000	"			2	0
" 5,000	" .. Ditto ..	8,000	"			2	8
Above	8,000	"				4	0
Also for a receipt in full of all demands, ..						4	0

And any instrument, note, memorandum or writing, given upon the payment of money, whereby any money, debt, or demand, or the part thereof therein specified, shall be expressed or acknowledged to have been paid, settled or otherwise satisfied, shall be deemed to be a receipt for the amount so declared to be paid or satisfied. The duty is to be paid by the party giving the receipt, and if a stamped receipt be refused, the party making the payment may provide the stamp, deducting the value thereof from the sum due.

And if any such instrument or other writing shall contain a general acknowledgment of the settlement of debts, accounts, or other demands, without specifying the amount thereof, such instrument or writing shall be deemed and taken to be a receipt in full of all demands, and charged accordingly.

And if payment be made by delivery of a bill or bills of exchange, draft or drafts, promissory note, or the like securities of money, the receipt or acknowledgment given thereupon, shall be deemed to be a receipt within the meaning of this Schedule.

Exemptions.

Receipts or discharges written upon or contained in any mortgage, deed of conveyance, settlement, or other instrument duly stamped, acknowledging the receipt of the consideration money therein expressed, or the receipt of any principal money, interest, or annuity thereby secured.

III. For Leases of Real Property.

28. LEASES. Any lease made in perpetuity, or for a term of years or period determinable with one or more lives, or otherwise contingent, in consideration of a sum of money paid in the way of premium, fine, or the like, if without rent,

The same duty as for a conveyance or sale for a sum of the amount of such consideration.

29. Any lease of lands, houses, or other real property, at a monthly or yearly rent, without any payment of any sum of money by way of fine or premium.

For a period
not exceeding
one year. For a period
exceeding
one year.

Where the rent calculated for the whole year shall exceed 12 Rs. but not exceed				Rs. As.		Rs. As.	
24 Rs.				0	4	0	8
Exceeding 24 Rs. but not exceeding 50 Rs.				0	8	0	12
50	Ditto	100	„	0	12	1	0
100	Ditto	250	„	1	0	2	0
250	Ditto	500	„	2	0	4	0
500	Ditto	1,000	„	4	0	8	0
1,000	Ditto	2,000	„	8	0	12	0
2,000	Ditto	4,000	„	12	0	16	0
4,000	Ditto	6,000	„	16	0	20	0
6,000	Ditto	10,000	„	20	0	32	0
10,000	Ditto	50,000	„	32	0	64	0
Above		50,000	„	64	0	80	0

30. Any lease of lands, houses, or other real property, stipulating for a yearly rent, and granted in consideration of a fine or premium, { Shall be charged with a duty equal to both ad valorem duties above provided, viz. both as lease and conveyance.

The counterpart of any lease, i.e. the *ku-booleut* or the like, { Shall be executed on paper, vellum, or parchment, bearing the same stamp as the original.

Exemptions.

All leases, where the annual rent shall not exceed twelve Rupees.

All leases, or pottahs given by authority of Government, or of the Board of Revenue, with their counterparts, and all security bonds, executed as part of the same transactions;

also all leases, viz. pottahs and kubooleuts, executed and exchanged with ryots, and other actual cultivators of the soil.

Note. Leases, pottahs, kubooleuts, or other instruments of contract between zemindars, talookdars, or other holders or proprietors of land, whether subject to the payment of revenue to Government or otherwise, or between farmers, kutkenadars, ijaradars, or other tenants, on one hand, and any other talookdar, kutkendar, ijaradar, or other lease holder, intermediate between the ryots or actual cultivators and the sudder malgoozar or lakherajdar, on the other,

Shall be written on stamp paper of the value above prescribed for leases.

[CONSTRUCTION No. 635, 20TH MAY, 1831.]

All leases and counterparts, *i. e.* *pottahs* and *kubooleuts*, granted to, and taken from, the cultivators of the soil, should be written on unstamp paper, whether the Government be or be not a party to the transaction.]

IV. *Wusseatnamahs or Wills, and*

V. *Authorities from husbands to wives to adopt sons after husbands' decease.*

46. SETTLEMENTS, marriage settlements, &c. viz.

Any deed or instrument, whereby any sum or sums of money or any Government securities or other property, real or personal, shall be settled or agreed to be settled upon, or for the benefit of any person or persons in any manner whatsoever,

Shall be charged with the ad valorem duty chargeable for a bond for the amount of value settled, or agreed to be settled, or, in cases in which the value shall be indeterminate, at the rate chosen by the parties under the rule and condition prescribed for Bonds and Agreements.

DEEDS OF GIFTS and DOWER, whether to } Shall be charged
take effect on the instant or at a future period, } as Deeds of settle-
determinate or indeterminate, } ment.

[CONSTRUCTION No. 836, OF 1833.]

Deeds of hiba-bila-ewuz, i. e. *deeds of gift for a consideration*, are to be charged as agreements with such stamp as the parties may determine.]

Exemptions.

WILLS, Testaments, and the like, together with deeds merely declaratory of trust, pursuant to any previous settlement, deed, or will.

VI. Engagements of ryots and others for delivery of Indigo Plants.

27. ENGAGEMENTS to cultivate, provide, or } Shall be
deliver indigo plant, or to produce, manufac- } charged on the
ture, provide, or deliver any other article of com- } amount ad-
merce, in consideration of advance made, } vanced at the
rate of Bonds.

VII. Obligations for the payment of Money.

1. AGREEMENT, ikrar, or any minute, or mc- }
moranum of an agreement concerning any }
matter or thing, not otherwise charged in this }
schedule, nor expressly exempted from all }
stamp duty, whether the same be only evi- }
dence of a contract or obligatory upon the }
party—if relating to matters capable of valu- }
ation, and with the value stated, }
To be charg-
ed as herein-
under prescrib-
ed for Bonds
of the same
amount.

2. Agreement for a monthly or annual }
payment, }
To be estimated
at the amount of ten
years' payment, or
of the total sum
secured, if less.

[CONSTRUCTION No. 1306, of 1841.

A memorandum of agreement for the time of the services of a mookhtar, specifying a fixed sum as his monthly stipend in money, and guaranteeing to him his daily food, must be written on the stamp prescribed in article 2, schedule A. Regulation X. 1829.]

Exemption.

Memorandum of agreement for the hire of labor. Ditto all agreements carried on by letter through the public dawkh between merchants and other persons.

4. **BILLS of EXCHANGE**, drafts, promissory notes, hoondees, tceps, burats, and other orders or obligations for the payment of money, payable (if payable within the provinces subordinate to this Presidency) at sight or on demand, or at the periods specified below (not being deeds, instruments or writings, bearing the attestation of one or more witnesses) together with all bills of exchange payable out of the said provinces at whatever date,

				At sight or on demand or not exceeding three months, to be charged	Exceeding three months after date and not exceeding one year, to be charged		
If for a sum of money not exceeding				Rs.	As.	Rs.	As.
25 Rs.	..	..	..	0	1	0	2
Above 25 Rs. and not exceeding 50 Rs.				0	2	0	4
50	„	Ditto	100 „	0	4	0	8
100	„	Ditto	200 „	0	8	0	12
200	„	Ditto	400 „	0	12	1	0
400	„	Ditto	800 „	1	0	1	8
800	„	Ditto	1,600 „	1	8	2	0

					Rs.	As.	Rs.	As.
Above 1,600 Rs. and not exceeding 3000					Rs. 2	0	2	8
„ 3,000	„	Ditto	5,000	„	2	8	4	0
„ 5,000	„	Ditto	10,000	„	4	0	6	0
„ 10,000	„	Ditto	20,000	„	6	0	8	0
„ 20,000	„	Ditto	30,000	„	8	0	12	0
„ 30,000	„	Ditto	50,000	„	12	0	16	0
„ 50,000	„	Ditto	10,0000	„	16	0	20	0
Above .. ..	..	..	1,00,000	„	20	0	25	0

5. Bills of exchange, promissory notes, &c. intended to be re-issued, { Shall be charged as prescribed for Promissory Notes payable at a date exceeding three months.

6. Bills of exchange, promissory notes, &c. of date exceeding one year, } To be charged as Bonds.

7. Bonds, tumusooks, and other attested obligations for the payment of money, also promissory notes and bills of exchange, teeps, burats, and the like, of date exceeding one year,

					Rs.	As.
If for any sum not exceeding 25 Rupees,					0	2
Above 25 Rs. and not exceeding 50	„				0	4
„ 50	„	Ditto	100	„	0	8
„ 100	„	Ditto	200	„	1	0
„ 200	„	Ditto	300	„	2	0
„ 300	„	Ditto	500	„	4	0
„ 500	„	Ditto	1,000	„	6	0
„ 1,000	„	Ditto	2,000	„	10	0
„ 2,000	„	Ditto	3,000	„	16	0
„ 3,000	„	Ditto	5,000	„	20	0
„ 5,000	„	Ditto	10,000	„	32	0
„ 10,000	„	Ditto	20,000	„	40	0

					Rs.	As.
Above	20,000	Rs. and not exceeding	5,000	Rupees	64	0
„	50,000	Ditto	75,000	„	70	0
„	75,000	Ditto	1,00,000	„	80	0
„	1,00,000	Ditto	1,50,000	„	100	0
„	1,50,000	Ditto	2,00,000	„	120	0
Above		..	2,00,000	„	150	0

And a further duty of 100 rupees for every sum of one lack in excess of the said amount of two lacks of Rupees.

[CONSTRUCTION No. 1087, OF 1837.]

The fact of two or more distinct and separate debts due by different individuals being engrossed on the same stamp does not vitiate the deed, provided the stamp be of a sufficient value to cover the whole amount lent.]

8. BONDS, given as security for the transfer of Government securities, or for the payment of an annuity for a fixed period, or for the delivery or accounting for any matter or thing capable of being valued, } Shall be charged at the rate of the amount engaged to be paid or accounted for, or at the value of the thing to be delivered or transferred.

9. BONDS, for annuities for an indefinite period, such as life annuities, and the like, } Shall be charged at the rate of ten times the yearly payment.

13. SECURITY BONDS, which may be taken by or by order of any court, collector, or other judicial or revenue authority, also razeenamahs, sooluhnamahs, and ruffanamahs, filed in any suit pending in a court of justice, } To be charged as specified and prescribed in schedule B. for law papers.

[According to the 1st Article of schedule B, security bonds, "when executed between individuals not by order of court," are to be charged as bonds.

CONSTRUCTION No. 341, OF THE 1ST JUNE, 1821.

If a person, becoming surety for the payment of a debt, affix his name in recognition of his responsibility, it is not necessary that he should enter into a regular security bond, on a separate stamp of the same value as that of the original obligation.

CIRCULAR ORDER No. 216, OF THE 27TH OCT. 1837.

A formal security bond cannot, however, be written on the same sheet of paper with the principal deed, if the stamp used is only of the value required for the latter instrument.

Construction 1121, of 1837, merely explains the meaning of the Circular No. 216.]

40. MORTGAGES, assignments, acknowledgments, or promissory notes granted to the treasurer, or other officer of the bank, or to any private banker or agent, for loans or advances made on the deposit of Government securities, bullion, plate, jewels, or other goods, } To be charged as Promissory Notes.

42. POLICY OF ASSURANCE, or INSURANCE, or other instrument, by whatever name the said shall be called, whereby an insurance shall be made upon any life or lives, or upon an event depending upon any life or lives, •

					Rs. As.
Where the sum insured shall not exceed 5,000 Rs.					4 0
Exceeding 5,000 Rs. and not exceeding 10,000 „					8 0
„ 10,000 „	Ditto	....	20,000 „		12 0
„ 20,000 „	Ditto	....	50,000 „		16 0
Above ..	..	..	50,000 „		20 0

43. Policy of insurance of any ship, vessel, sloop, lighter, boat, or the like, or of any goods or property on board, or upon the freight of any ship, vessel, sloop, lighter, boat, or the like, or upon any other interest relating thereto, or upon any voyage where the premium shall not exceed two per cent. on the sum insured, if the whole sum insured shall not exceed one thousand rupees.....	Rs. As.
	0 8

If the sum insured exceed one thousand rupees, then for every one thousand rupees, and also for any fractional part of one thousand rupees whereof the same shall consist.....	0 8
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When the premium shall exceed two per cent. on the sum insured, if the whole sum shall not exceed one thousand rupees,.....	1 0
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If the sum insured exceed one thousand rupees, then for every one thousand rupees, and also for any fractional part of one thousand rupees whereof the same shall consist.....	1 0
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PROMISSORY NOTES—See Bills of Exchange.

Promissory Notes, payable at a period exceeding one year after date—See Bonds.

44. PROMISSORY NOTES for the payment of any sum by instalments, <i>i. e.</i> kistbundees, or for the payment of several sums at different dates, so that the whole of the money to be paid shall be definite and certain,	}	The same duty as would be chargeable on a bond for the whole amount.
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STAMPS REQUIRED FOR MOOKHTARNAMAHS.

LETTERS, or POWERS of ATTORNEY, MOOKHTARNAMAHS, &c.
viz :

32. Powers to perform any one special, that is	}	Rs.	As.
to say, particular act, or the acts connected with		0	8
one particular suit, case, or transaction,			

32. General, <i>i. e.</i> not restricted as above to one	}		
case, suit, or transaction,		4	0

STAMPS REQUIRED FOR COPIES OF DEEDS.

20. COPY, or COUNTERPART of any DEED or INSTRUMENT attested to be a true copy and furnished to a party to the same, for the purpose of being given in evidence for the recovery of any sum of money, property, interest, or right secured thereby,	}	The same duty as prescribed for the original deed by this Regulation.	

21. Where such copy may be made for the security or use of any person not being a party to, or taking any benefit or interest immediately under the agreement, contract, bond, or other instrument, per sheet	Rs.	As.
	0	8

22. Copy or extract of any deed, instrument, schedule, receipt, or other matter annexed to any agreement, contract, bond, deed, or other instrument, per sheet		
	0	8

GENERAL RULE.

If any deed, instrument, or document specified in this schedule shall not be contained in any one sheet or piece of paper or other material, it shall suffice that one sheet shall bear the stamp, provided that the signature or seals of the parties and witnesses be thereupon.

ANALYSIS

OF

THE LAW OF REGISTRATION OF DEEDS.

APPOINTMENT OF REGISTER OF DEEDS.

I. Offices at the sudder stations of zillahs.

	<i>Year</i>	<i>Reg.</i>	<i>Sec.</i>
The register is to take the oath of office before the judge,	1793	36	2
He is to perform his duties personally, ...	{ 93	36	15
	24	4	2
In case of sickness or temporary absence, the register is permitted, with the approbation of the judge, to appoint a qualified covenanted servant as deputy,	{ 93	36	15
	24	4	2
On a register's leaving the station without nominating one, the judge is to appoint a qualified covenanted servant as deputy,	24	4	3
The deputy appointed in either case is to take an oath similar to that prescribed for the register, ...	{ 93	36	15
	24	4	2
And to receive the authorised fees, ...	24	4	7
On the office becoming vacant, the judge is to appoint a qualified covenanted servant to officiate as register,	24	4	4
Such person is to receive the authorised fees, ...	24	4	7
If there be no other eligible person, the judge is himself to perform the duties of the office, ...	24	4	5
In such case, the net amount of fees shall be carried to the credit of the government, ...	24	4	7

A principal sudder ameen may, previous sanction of the government being had, be appointed to officiate as register, and receive the authorised fees, ...

Year Reg. Sec.

32 7 4

Relative claims of covenanted servants to the appointment.

A register officiating as collector, does not need to be re-appointed as register, Construction 366.

A civil surgeon may be appointed by the judge as deputy, or, on the office being vacant, as register, Con. 288 and 611.

As a general rule, the senior assistant at the station is to receive the appointment, C. O. No. 36, 23d Dec. 1831.

A joint magistrate and deputy collector of the second grade has an equal right with the head assistant, C. O. No. 199, 24th February, 1837.

II. Offices at civil stations other than sudder stations.

Offices for the registration of deeds may be established at any civil station, and placed by the orders of the government under any officers resident at such stations,

38 30 2

The registers at such stations are not authorised to nominate deputies to act for them, ...

38 30 4

In the event of the death or absence of the register of such station, the judge or other officer specially authorised, may appoint any person to officiate as register,

38 30 6

CAZEES.

Cazees in Bengal and Orissa are to be furnished with Persian and Bengalee translates of Regulation XXXVI. 1793 ; those in Behar with the former only,

93 36 16

And with translates of all other regulations, ...

93 39 10

	<i>Year</i>	<i>Reg.</i>	<i>Sec.</i>
Cazees are stationed in towns and pergunnas for the purpose (among others) of preparing and attesting deeds of transfer and other law papers, ...	93	39	1
It is requisite therefore that they be qualified by legal knowledge,	93	39	1
The chief cazee is to be appointed by the government, and is to use a circular seal two inches in diameter, with the designation of his office and his name in Persian,	93	39	2
The cazees of the towns and pergunnas are to use a similar seal, an inch and a half in diameter, ...	93	39	3
The cazees are to keep copies of all deeds, and law and other papers, which they may draw up or attest, and are to affix thereto their seals and signatures,	93	39	7
They are likewise to keep a list of such papers, ...	93	39	7
They are to enter copies of deeds attested by them in books, paged throughout and attested with the judge's initials, and properly bound up ; the books, when filled up, are to be deposited in the judge's office, C. O. No. 21, 28th Sept. 1838.			
A list of the deeds so attested and registered is to be sent monthly to the judge, C. O. No. 21, 28th Sept. 1838.			
A cazee cannot delegate to another the power to affix his seal of office to documents, C. O. No. 61, 6th Dec. 1839, para. 5.			

CONDUCT OF THE REGISTRY OFFICE.

Registry Books.

Each species of deed is to be registered in a separate book, regularly paged,	93	36	8 1
To authenticate the book, the judge is to note in his own hand and under his signature, on the last page, the number of pages it contains, ...	93	36	8 1

Every deed entered, is to be numbered, and the date of registration noted, in the margin of the book,

Registry books, when filled up, are to be deposited among the records of the zillah court, ...

Registry books are to be uniformly made of English paper, and carefully bound, ...

An index to the registry books is to be prepared annually, ...

Two forms of index are prescribed by the sudder court, C. O. No. 62, 31st Jan. 1845, para. 11.

The register is to furnish the collector with the particulars of transfers of landed property entered in the registry books, ...

Hours of attendance.

The register is to attend during certain specified hours, and to affix a written notice thereof in a conspicuous part of his office, ...

Year Reg. Sec.

93 36 8 2

93 36 8 2

12 20 7

12 20 9

93 42 24

93 36 13

COPIES OF REGISTERED DEEDS OBTAINABLE.

On application to the register, copies of deeds registered are to be granted to persons whom they may concern, ...

Such copies shall be received by the courts, in lieu of originals, when these are not forthcoming, but the execution of them can be proved by the subscribing witnesses, ...

Such copies are not to be granted before payment of a fee of one rupee, ...

{ 93 36 11
12 20 2 5
12 20 3 8

{ 93 36 11
12 20 2 5
12 20 3 8

{ 93 36 14
12 20 4

DESCRIPTION OF DEEDS AUTHORISED TO BE REGISTERED.

1. Deeds of sale or gift of real property, ... 93 36 3 2
2. Deeds of mortgage on real property and certificates of the discharge of such incumbrances, ... „ „ „ 3

	<i>Year</i>	<i>Reg.</i>	<i>Sec.</i>
3. Leases of real property,	93	36	3 4
4. Wusseatnamahs or wills,	"	"	" 5
5. Authorities from husbands to wives to adopt sons after husbands' demise,	"	"	" 6
6. Engagements of ryots and others for de- livery of indigo plants,	12	20	3 1
7. Obligations for the payment of money, if brought for registration by the person executing, or his representative,	12	20	5 1

Security bonds for costs of suit may be registered
as obligations for the payment of money, Con. 1270.

Each species of deed is to be entered in a sepa- rate book,	{	93	36	8 1
		12	20	3 2
		12	20	5 2
No other description of deeds is to be entered,		12	20	7

Mookhtarnamahs are not to be registered, Con. 812.

Nor a deed engrossed on a stamp of inferior value,
Con. 138.

Nor a deed whereby a person binds himself and
progeny to slavery, Con. 812.

Nor a deed of gift, after the death of the donor,
Con. 1218.

Nor a deed of which the attested copy produced,
contains interlineations and erasures, C. O. No. 62,
31st. Jan. 1845, para. 7.

Powers of attorney produced by agents, who at-
tend for parties having deeds to register, are to be
carefully preserved, 12 20 10

And regularly entered in a separate book to be
kept for the purpose, Con. 732, 12 20 10

FEEs FOR REGISTRATION OF DEEDS,

Whether at an office, at the sudder or at any other civil station,		38	30	3
--	--	----	----	---

	<i>Year</i>	<i>Reg.</i>	<i>Sec.</i>
For every deed registered, two rupees, ...	93	36	14
	12	20	4
	12	20	5 3
If the deed be in any European language, the cost of transcribing is to be paid for, in addition, at section rates,	38	30	5
For every copy given of a registered deed, one rupee,	93	36	14
	12	20	4
	12	20	5 3
For every inspection of a registry book, half a rupee,	93	36	14
	12	20	4
	12	20	5 3
These official acts may be refused till payment of fees,	93	36	14
	12	20	4
	12	20	5 3
Native officers for making entries and copies, and the requisite stationery, are to be provided out of such fees,	93	36	14
	12	20	4
	12	20	5 3
An account of fees received is to be kept in English,	20	12	8
When a deed is registered in a district other than that in which the property lies, the party registering is to pay the usual fees for every copy required to be sent to another district ; and the register receiving the fees is to account for the same to the registers of the other districts,	45	4	3

FORMS AND RULES OF REGISTRATION.

Persons having deeds to register, are to attend in person, or by authorised agent, with the original deed, and a copy of it, attested by one at least of the parties and one of the witnesses, ...	12	20	2
	12	20	3 4
The registration of obligations for the payment of money can only be made on the application of the obligor in person or by authorised agent, ...	12	20	5 1,3

A register is bound to decline the registration of a deed engrossed on a stamp of inferior value, Con. 438.

A deed of gift cannot be registered after the death of the donor, Con. 1218.

A deed drawn up in Persian may be registered, notwithstanding the disuse of that language in judicial proceedings, Con. 1230.

The attested copy produced with the original deed, may be written on plain paper, Con. 119 ; C. O. No. 35, 22d April 1813.

The register may refuse to register a deed if the attested copy produced contain interlineations and erasures, C. O. No. 62, 31st Jan. 1845, para. 7.

The execution of the deed is to be proved on oath before the register,

} 93 36 9
20 12 2 1
20 12 3 4

The party or his agent is merely to acknowledge the execution ; but that fact must be sworn to by one or more of the witnesses to the deed, Con. 226.

The execution of the mookhtarnamah of the agent is to be sworn to by two witnesses, Con. 226.

After comparison of the attested copy produced, the register is to endorse on it the date and hour of presentation,

} 12 20 2 1
12 20 3 4

The copy is to be filed, and entered in the registry book, in its order ; and day and hour of completion of entry are to be noted in the book, ...

} 12 20 2 1
12 20 3 4

The person who brings a deed for registry is no longer to be required to sign the copy made in the book, C. O. No. 185, 2d Sept. 1839.

The original is to be returned with a certificate endorsed thereon of the date and hour of registration, and page of registry book,

} 12 20 2 2
12 20 3 5

	<i>Year</i>	<i>Reg.</i>	<i>Sec.</i>
The entry of the copy is not to be postponed beyond the day on which it was endorsed, ...	{ 12	20	2 3
	{ 12	20	3 4
The certificate of the register is to be considered sufficient evidence of registration, ...	{ 93	36	10
	{ 12	20	3 6
A fee of two rupees is to be paid for every deed before registration,	{ 93	36	14
	{ 12	20	1
	{ 12	20	5 3
If the deed be in any European language, the cost of transcribing is to be paid for, in addition, at section rates,	39	30	5

On a person bringing for registration a deed similar to another, in favor of a third party, which had already been registered through a mookhtar, the register cannot refuse to register the second deed, but should satisfy himself of the identity of the party, if he appear in person, or, if by attorney, the validity of the mookhtarnamah, Con. 1351.

The validity of the two deeds in question can only be tried by a regular suit, Con. 1351.

INSPECTION OF REGISTRY BOOKS AND ATTESTED COPIES OF DEEDS.

On application all persons are to be allowed to inspect the registry books, 93 36 11

But not before payment of a fee of half a rupee for every inspection, 93 36 14

The attested copies brought with original deeds, and filed, may be inspected by all persons equally with the registry books, { 13 20 2 4
12 20 3 7

MOOKHTARNAMAHS.

See description of deeds authorised to be registered.

OFFENCES AGAINST REGISTRATION

Persons counterfeiting or falsifying an entry in a registry book, or a certificate of registration, are to

	<i>Year</i>	<i>Reg.</i>	<i>Sec.</i>
be prosecuted in the criminal court, by the register, on the part of the government,	93	36	12

A person committing perjury before a register is by him to be sent to the judge for commitment, agreeably to clause 2, section 14, Regulation XVII. 1817, Con. 611.

PLACES WHERE DEEDS MAY BE REGISTERED.

An office for the registration of deeds is to be established in each zillah,	93	36	2
---	----	----	---

Such office is to be fixed at the sudder station of the zillah,	24	4	2
--	----	---	---

Offices may also be established at any civil stations,	38	30	2
---	----	----	---

Deeds may be registered at any office within the presidency, without reference to the situation of the property to which they relate,	45	4	1
--	----	---	---

Deeds relating to property situated in two or more zillahs, must be registered in each zillah, ...	93	36	7
--	----	----	---

When a deed is registered in a district where the property is not situated, the register shall send a copy thereof, as registered and endorsed in his office, to the registers of each of the districts where the property lies,	45	4	2
---	----	---	---

The copy in question is to be attested by one at least of the parties and one of the witnesses to the original deed,	45	4	2
---	----	---	---

The register of any office receiving such copy, shall duly register the same, as if it had been presented to him by the party registering, ...	45	4	2
--	----	---	---

When a property lies in several districts, a deed shall be held to be registered, as regards the portion of it in any one district, as soon as registration has been effected in that district,	45	4	4
--	----	---	---

POWERS OF ATTORNEY.

See Description of deeds authorised to be registered.

PRINCIPAL SUDDER AMEENS

Are eligible to be appointed to officiate as register, previous sanction being had from the government,

32 7 4

STAMPS.

See Appendix for value of stamps required for different descriptions of deeds and copies thereof.

Deeds engrossed on stamps of inferior value are not to be registered, Con. 438.

The attested copy produced with the original deed for registration, may be written on plain paper, Con. 119 ; C. O. No. 35, 22d April, 1813.

**SUPERVISION BY THE JUDGE OF REGISTRY
OFFICES AT THE SUDDER STATION.**

The attested copies brought, with original deeds, to be filed, and the copies in the registry books, are to be countersigned by the judge within one month,

12 20 6 2

If the judge be absent at the time of registration, the countersignature is to be within one month of his return,

12 20 6 2

Irregularities of the register or his native officers are to be reported to the government, ...

12 20 6 3

Such supervision is not required as respects offices at other than sudder stations, ...

38 30 4 .

But the judge may still, by inspection of the books sent for deposit, ascertain how the duties are performed at such offices, C. O. No. 62, 31st Jan. 1845, para. 10.

Any irregularities which he may notice are to be reported to the sudder court, C. O. No. 62, 31st Jan. 1845, para. 10.

VALIDITY GIVEN BY REGISTRATION.

Objects aimed at in the establishment of registry offices,	93	36	1
Registration of deeds of conveyance or mortgage of real property, leases, wills, or authorities to adopt, executed before 1st Jan. 1796, is optional ; and non-registration will have no prejudicial effect,	93	36	4
The same rule regarding leases, wills, and authorities to adopt, whether executed previous or subsequent to 1st Jan. 1796,	93	36	5
Every deed of conveyance or mortgage of real property, duly registered, and proved to the satisfaction of the court, shall have effect in preference to every other unregistered deed of the kind, for the same property, whether of a prior or later date,	{ 93	36	6
	{ 43	19	2 3
The same rule regarding certificates of release from mortgage,	43	19	2 3
Such preference is not to be affected by any alleged notice or knowledge of any prior unregistered deed relating to the same property, executed after the 1st May, 1843,	{ 43	1	1
	{ 43	19	1
But no other description of deeds relating to real property, shall be void for want of registration, ...	43	19	3
Registration of engagements for delivery of indigo plants, executed after the 1st Jan. 1813, is optional,	12	20	3 3
But every such engagement, if legal and <i>bona fide</i> , shall have effect in preference to every other unregistered deed of the kind for the produce of the same ground, whether of a prior or later date, ...	12	20	3

